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NOTICE OF FINAL RULEMAKING

**AMENDMENTS TO PETROLEUM INDUSTRY INFORMATION
REPORTING REGULATIONS**

**CALIFORNIA CODE OF REGULATIONS, TITLE 20, DIVISION 2,
CHAPTER 3, SECTIONS 1361 ET SEQ.**

CALIFORNIA ENERGY COMMISSION
Docket Number 02-P11-01

**CALIFORNIA ENERGY COMMISSION
TITLE 20, SECTION 1361 et seq.
PETROLEUM INDUSTRY REPORTING**

NOTICE OF FINAL RULEMAKING

Notice is hereby given that the California Energy Commission (Energy Commission) has revised title 20, California Code of Regulations, Division 2, Chapter 3, Section 1361 et seq. The new regulations were adopted by the Energy Commission on April 13, 2005, to implement new statutory provisions requiring the California crude oil and petroleum products industry to report data to the Energy Commission.

Contact: Inquiries concerning the action described in this notice may be directed by mail to Sue Kateley, Transportation Fuels Office, California Energy Commission, 1516 Ninth Street, Sacramento, CA 95814 or by phone at 916-657-4245 or by email at skateley@energy.state.ca.us.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Public Resources Code section 25350 et seq. vests the Energy Commission with the authority to establish regulations requiring the petroleum industry to report production, inventory, shipments and prices of crude oil, motor fuels and motor fuel blending components.

The amendments and modifications to title 20, California Code of Regulations, Division 2, Chapter 3, Section 1361 et seq. will implement statutory requirements that require the Energy Commission to collect and analyze data on production, inventory, shipments and prices for crude oil, motor fuels and motor fuel blending components in California. This information will allow the State to monitor the supply and price of transportation fuels and prepare timely analyses on disruptions that may have an adverse impact on the California economy. The information will also allow the Energy Commission to assess the causes of, and monitor, price spikes and supply disruptions with respect to California's transportation fuel supplies, as directed by Public Resources Code, section 25356.

SUMMARY OF REGULATION

The new regulations implement the statutory provisions enacted in 2000 and 2003 requiring the California crude oil and petroleum products industry to report additional data to the Energy Commission. The Energy Commission also updated and added definitions to the regulations to reflect terms now in use since the regulations were last amended in 1985.

The California Legislature enacted the Petroleum Industry Information Reporting Act (PIIRA) of 1980 (Pub. Resources Code, section 25350 et seq.) to address the need for state government to understand, analyze and assess supply and prices of transportation fuels. PIIRA established the Energy Commission's authority to collect data from the crude oil and petroleum products industry. Analyses and assessments are based on data provided by the California crude oil and petroleum products industries.

SB 1962 (Costa), Chapter 288, Statutes of 2000 amended PIIRA to add monthly reporting requirements for crude oil and petroleum product production, importing, exporting, inventory, storage, transporting, distribution and marketing activity.

AB 1340 (Kehoe), Chapter 692, Statutes of 2003 further amended PIIRA to add weekly reporting requirements on wholesale fuel prices, production, inventory, distribution and marketing data.

Demand for transportation fuels now exceeds the production capacity of in-state refineries, resulting in California's increasing reliance on imports to meet demand. New infrastructure to receive, store and distribute imported fuels will need to be planned, permitted and constructed to meet California's transportation fuel needs. Moreover, California's unique fuel specifications and the structure of the petroleum products industry have increased the type and quantity of reports necessary for the Energy Commission to make timely and reliable assessments of supply and distribution constraints that could affect fuel supplies and prices.

The Energy Commission identified inadequacies in current industry reporting requirements and needs to broaden existing data collection and reporting frequency to meet its statutory analytical requirements. The Energy Commission has also identified the need for more detailed and frequent data collection to improve its ability to assess and respond to emerging petroleum issues in a timely manner. The Energy Commission is especially concerned about production and supply problems and meeting the state's increasing demands for gasoline and diesel.

This proposed action will implement the reporting requirements legislated by SB 1962 (Costa), Chapter 288, Statutes of 2000, AB 1340 (Kehoe), Chapter 692, Statutes of 2003, and Public Resources Code section 25354 et seq. In addition, existing PIIRA regulations and reporting forms will be revised to reflect the many changes in industry operations, definitions, and fuels grades that have occurred since the PIIRA regulations were adopted in 1980.

CHRONOLOGY OF THE RULEMAKING PROCESS

On February 21, 2003, the Energy Commission opened a rulemaking to consider amendments to the Petroleum Industry Information Reporting Act (PIIRA) regulations (Cal. Code Regs., tit. 20, Section 1361 et. seq.) that would implement new statutory reporting requirements adopted in 2000. In 2003, additional amendments to the statute were adopted, adding new reporting requirements.

On November 17, 2003, Governor Schwarzenegger issued Executive Order S-2-03, directing state agencies to suspend work on regulations for six months (with exceptions for health and safety related regulations). Consequently, the Energy Commission halted this rulemaking activity.

The Energy Commission held a hearing on March 18, 2004, and a staff workshop on April 27, 2004, to take public comment on the proposed instructions and forms for implementing the new reporting requirements.

In September 2004, the Energy Commission issued revised forms and instructions in response to comments heard at the hearing and workshop.

On December 3, 2004, the Energy Commission issued 45-day language on proposed regulations. Notice of these proposed regulations were published in the California Regulatory Notice Register on December 3, 2004. The Energy Commission did not receive any requests for hearing of the proposed regulations during the 45-day comment period.

On March 18, 2005, the Energy Commission issued 15-day language on the proposed regulations. These proposed regulations incorporated revisions responding to comments received during the 45-day comment period.

On April 13, 2005, the Energy Commission adopted the proposed draft regulations at a hearing during a regularly scheduled Business Meeting.

AUTHORITY AND REFERENCE

The Energy Commission hereby amends the regulations contained in sections 1361 et seq. of title 20, Division 2, Chapter 3 of the California Code of Regulations pursuant to the authority granted in Public Resources Code Section 25354 (e). The statutes being implemented, interpreted and made specific are Chapter 288, Statutes of 2000 and Chapter 692, Statutes of 2003. Chapter 288, Statutes of 2000 amended Sections 25000.5, 25350, 25354, 25356, and 25364 and added Section 25141 to the Public Resources Code. Chapter 692, Statutes of 2003 amended Sections 25354 and 25364 of the Public Resources Code.

DISCLOSURES AND DETERMINATIONS REGARDING THE REGULATIONS

Regulations Mandated by Federal Law (Government Code Section 11346.2)

These regulations are not mandated by federal law or federal regulations.

Other Statutory Regulations (Government Code Section 11346.5(a)(4))

There are no other matters related to the proposed regulations prescribed by statute applicable to this specific state agency or to any specific regulation or class of regulations.

Local Mandate Determination (Government Code Section 11346.5(a)(5))

These regulations would not impose a mandate on local agencies or school districts nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code).

Fiscal Impact (Government Code Section 11345.5(a)(6))

- a. There are no costs to any local agency or school district for which Government Code Sections 17500-17360 require reimbursement.
- b. There are no other non-discretionary costs or savings that would be imposed on local agencies.
- c. There are uncertain costs to the Energy Commission for implementing the new law, which will be absorbed during the 2005-2006 fiscal year. There are no other costs to other state agencies.
- d. There are no costs or savings in federal funding to the state.

Effects on Housing Codes (Government Code Section 11346.5(a)(12))

There is no significant effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, including Ability to Compete (Government Code Sections 11346.3(a), 11346.5(a)(7) and 11346.5(a)(8)).

The Energy Commission has determined that there will be no such impacts (see discussion below on Cost Impacts on Representative Person or Business).

Assessment Regarding Effect on Jobs/Businesses (Government Code Section 11346.5(a)(10))

- a. The creation or elimination of jobs within the State of California: None.
- b. The creation of new businesses or the elimination of existing businesses within the State of California: None.
- c. The expansion of businesses currently doing business within the State of California: None.

Cost Impacts on Representative Person or Business (Government Code Section 11346(a)(9)).

The regulations affect those private businesses producing, shipping, storing, distributing, marketing, importing and exporting crude oil and petroleum products if their companies meet the definition for a large company operating in the particular sector of the industry. The regulations establish reporting requirements applicable to specific segments of the industries. Reporting requirements apply according to the company's business activity and the size of the company. In general, companies that handle large volume are required to report since they represent the majority of companies marketing crude oil and petroleum products. For example, a company may or may not be involved in both oil extraction and refining. Companies involved in more than one industry segment (extraction, refining, distribution, marketing, storage, retail) will, by definition, have reports that are associated with each of these activities.

Companies with business activity in multiple sectors of the industry (i.e., extraction, refining, distribution, storage, marketing, retail) would be required to file reports applicable to those sectors. Current reporting requirements are the same. The proposed regulations increase the frequency of required reporting and increase the number of sectors required to report (i.e., Importers, Exporters, Major Marketers, Retail Fuel Outlets). The Energy Commission believes the economic impact of the proposed regulations will be minimal because many of these companies (Refiners, Major Storers, Terminal Operators, Pipeline Operators and most Importers and Exporters) are already providing the reports to the Energy Commission. The cost of filing certain documents with the Energy Commission and completing required forms should be minor for affected businesses.

Effect on Small Business Pursuant to Title 1 California Code of Regulations Section 4

The Energy Commission has determined that these proposed regulations affect small businesses. Accordingly, the Energy Commission has provided:

- a. A concise plain English policy statement overview regarding the proposed regulations explaining the broad objectives of the regulation.
- b. Express terms written in plain English.

Both the policy statement overview and the express terms are available from the agency contact person named in this notice.

Alternatives Considered (Government Code Section 11346.5(a)(14))

The Energy Commission has determined that no reasonable alternative considered by the Energy Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than this action.

Availability of Statement of Reasons, Express Terms and Information

The Energy Commission has prepared a Final Statement of Reasons for this action, the information upon which the regulations are based and the express terms of the regulations. The rulemaking file for this proposed regulatory action is maintained at the Energy Commission, 1516 Ninth Street, Sacramento, California and is available for public review during the Energy Commission's normal business hours (Monday through Friday 8am to 5pm). Requests to review the rulemaking files should be directed to the agency contact person named in this notice. Copies of the documents in the rulemaking file are also available on the Energy Commission website at <http://www.energy.ca.gov/oil/piira/index.html>.

Internet Access (Government Code sections 11346(a)(6), 11346(a)(20))

The text of the Regulation and this statement may be accessed at the California Energy Commission website at <http://www.energy.ca.gov/oil/piira/index.html>.